

REMARKS

The Office Action dated December 12, 2005, has been carefully reviewed and the following remarks are submitted in consequence thereof.

Claims 1-48 are pending in this application and are subject to restriction and/or election requirement. The Examiner asserted that restriction is required under 35USC 121 and 372. This restriction and election requirement is traversed.

The Examiner asserted applicant must elect one of these three groups for prosecution even though the restriction be traversed.

I. Claims 1-18, drawn to a method for determination of triglyceride individual molecular species, classified in class 436, subclass 71.

II. Claims 19-29, drawn to method for assessing risk to an individual, classified in class 436, subclass 71.

III. Claims 30-48, drawn to a method of treating a subject, classified in class 436, subclass 71.

Solely for completeness of response, applicant provisionally elects Group I, Claims 1-18 for examination at this time.

Applicants submit that application comprises one invention and includes all Claims 1-48. This discovery comprises together determining triglyceride individual molecular species, assessing risk to an individual and treating a subject. The Patent Office in requiring restriction is unnaturally dividing one invention trying to make three of it when to applicant this is really one invention.

In making this unnecessary and unsupported restriction requirement, applicants feel that the US Patent Office has split up the invention, by unnecessarily dividing up the single invention into the three groups contained in the restriction requirement. Applicant fails to find factual and statutory support for Examiner's restriction as required and accordingly

requests that the restriction be withdrawn. Should the Examiner be sustained here, it would appear that any burden in the US Patent Office has been placed on the shoulders of the applicant in the way of increased filing fees, prosecution costs, prosecution complexity etc.

Applicant submits that the Examiner has shown no undue burden for the Examiner in searching all Claims, 1-48. Further, the Examiner has not provided any physical evidence of any such burden on searching including any references to the amount of time to be spent searching, estimated number of US patents or references to be reviewed or to any amount of time to be spent in analyzing any such search hits. In this absence applicants assert that there is no undue burden in any searching by the Examiner and the restriction should be withdrawn.

Applicant submits that this restriction by the Examiner is contrary to and violates U.S.C. 121, C.F.R. 1.141 and 37 C.F.R. 1.142 which to applicant requires that to sustain restriction the alleged different inventions must be both independent and distinct. However, here the Examiner seems to have adopted an "independent or distinct" standard, because she appears to base her restriction on one (distinctness) of these two statutory requirements. Thus at least for this reason, the Examiner fails to provide a sufficient basis at law to sustain her restriction.

Applicants submit that requirements to make such a restriction are not mandatory to the office. It is believed that a thorough search and examination of all of claims would be relevant to the examination of all. No undue searching burden has been shown by the Examiner nor is any such burden seen to be presented by a search of all claims. Accordingly reconsideration and withdrawal of the election of species requirement is requested. Kindly examine all claims at this time including all claims subject to the provisional election(s) made herein solely for completeness of response.

Rather to the applicant, it would appear that searching of all Claims 1-48 in the invention would be a more practical, useful and efficient use of patent office resources. Kindly withdraw the restriction requirement, rejoin all claims and proceed with examination of all Claims after searching.

In view of the foregoing remarks, all claims in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Withdrawal of this restriction requirement is requested. Early passage to issue is requested.

Respectfully submitted,


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